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In re Application of :
CLASSEN, et al. :
Application No.: 10/583,637 :
PCT No.: PCT/EP04/53445 : DECISION ON PAPERS
Int. Filing Date: 14 December 2004 :
Priority Date: 23 December 2003 : UNDER 37 CFR 1.42
Attorney Docket No.: 2003P01972WOUS :
For: CONNECTOR DEVICE FOR :
PRODUCING AN ELECTRICAL :
CONNECTION BETWEEN A MAINS :
CABLE AND A LOOM :

This application is before the Office of PCT Legal Administration for issues arising under 35 U.S.C. 371. The combined declaration and power of attorney filed 03 August 2007 is being treated as a request for status under 37 CFR 1.42. No petition fee is due.

BACKGROUND

On 14 December 2004, applicant filed international application PCT/EP04/53445, which claimed priority to an earlier application filed 23 December 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 14 July 2005. Pursuant to 37 CFR 1.495, the thirty-month period for paying the basic national fee in the United States expired at midnight on 23 June 2006.

On 20 June 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); a First Preliminary amendment, an Application Data Sheet and an English translation of the international application.

On 02 May 2007, applicant was mailed a "Notification of Missing Requirements" (Form PCT/DO/EO/905) informing applicant that an executed oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) was required. Applicant was afforded two months to file the required response and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 03 August 2007, applicant filed the response including an executed combined declaration and power of attorney accompanied by a petition for a one-month extension of time and payment of the appropriate petition fee. With the filing of the petition for a one-month

extension of time and payment of the petition fee, the present response is considered timely filed.

DISCUSSION

37 CFR 1.42 When the Inventor is Dead, states, in part:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent."

The declaration submitted on 03 August 2007 was executed by joint inventors Egbert Classen and Hans-Dieter Rossteuscher, as well as, Erika Ertle, Marion Ertle, Lisa Ertle and Marco Ertle as heirs of the estate of deceased inventor, Roland Ertle. The filed declaration provides the citizenship, residence, and mailing address of both the deceased inventor and the signing heirs. However, it is not possible to accept the declaration at this time. Applicant has included a paper which appears to detail the heirs of the estate of the deceased inventor, however, applicant has not included an English translation of the this document nor a statement from counsel that the parties who executed the declaration on behalf of Mr. Ertle represent all of the heirs of his estate. Similarly, applicant has submitted a declaration including German text. Applicant has not used the Form PTO/SB/103 for this application. As discussed in the Manual of Patent Examining Procedure (MPEP) section 602.06:

Unless the text of any oath or declaration in a language other than English is in a form provided by the Patent and Trademark Office or in accordance with PCT Rule 4.17(iv), it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under § 1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

Therefore, absent an English translation it is not possible to accept applicant's declaration at this time.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice.**

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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